

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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**IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION**

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) **MDL No. 1456**  
) **Master File No. 01-12257-PBS**  
)  
) **Judge Patti B. Saris**  
)

**THIS DOCUMENT RELATES TO:**  
**State of California, *ex rel.* Ven-A-Care v.**  
**Abbott Laboratories, Inc., *et al.***  
**CASE #: 1:03-cv-11226-PBS**

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**STATE OF CALIFORNIA'S AND *QUI TAM* PLAINTIFF'S**  
**STATUS REPORT-OCTOBER 3, 2005**

The undersigned counsel, on behalf of plaintiff STATE OF CALIFORNIA ("CALIFORNIA") and *qui tam* plaintiff VEN-A-CARE OF THE FLORIDA KEYS, INC. ("VEN-A-CARE" or "*qui tam* plaintiff"), hereby submit the attached Status Report to the Court in accordance with the Court's June 17, 2004 Procedural Order.

Respectfully submitted,

BILL LOCKYER  
Attorney General for the State of California

Dated: October 3, 2005

By: /s/ Brian V. Frankel  
BRIAN V. FRANKEL  
CA State Bar No.: 116802  
Supervising Deputy Attorney General  
Bureau of Medi-Cal Fraud and Elder Abuse  
Office of The Attorney General  
California Department of Justice  
1455 Frazee Road, Suite 315  
San Diego, California 92108  
Tel: (619) 688-6065  
Fax: (619) 688-4200

**Attorneys for Plaintiff,  
STATE OF CALIFORNIA**

THE BREEN LAW FIRM, P.A.

Dated: October 3, 2005

By:           /s/ James J. Breen          

JAMES J. BREEN

FL Bar No. 297178

5755 No. Point Parkway, Suite 39

Alpharetta, Georgia 30022

Tel: (770) 740-0008

Fax: (770) 740-9109

**Attorneys for *Qui Tam* Plaintiff,  
VEN-A-CARE OF THE FLORIDA KEYS, INC.**

**MDL 1456 Status Report**  
**State of California, *ex rel.* Ven-A-Care v. Abbott Laboratories, Inc., *et al.***  
**Case No.: 1:03-cv-11226-PBS**

**First Amended Complaint in Intervention**

Plaintiffs filed a First Amended Complaint in Intervention on August 25, 2005.

**Motion to File Unredacted Exhibits Under Seal**

On August 25, 2005, plaintiffs filed a motion for leave to file unredacted Exhibits under seal. The Exhibits are Exhibits A-K and Exhibits M-R to the First Amended Complaint in Intervention. Redacted versions of such Exhibits were filed (and served on existing parties through Verilaw) on August 25, 2005, along with the First Amended Complaint in Intervention. The Court granted such motion, and the unredacted Exhibits have been filed under seal.

**State of California's Election to Decline**

On September 9, 2005, the State of California filed a motion for leave to file "State of California's Election to Decline as to Certain Defendants and Allegations" ("Election to Decline") under seal. The Court granted such motion on September 14, 2005. The Election to Decline was filed under seal on September 14, 2005.

**Qui Tam Plaintiff's Notice of Election/Dismissal**

On or about September 12, 2005, the *qui tam* plaintiff filed a motion for leave to file its "Notice of Election to Proceed and Notice of Dismissal" ("Notice of Election/Dismissal") under seal. The Court granted such motion, and the Notice of Election/Dismissal was filed under seal on September 14, 2005.

**Anticipated Filings**

The Attorney General of California will be filing additional motions/pleadings, under seal when necessary, to dispose of the state's interests in matters remaining under seal. In addition,

plaintiffs will request a Status Conference and the entry of a Case Management Order by a motion to be filed after the defendants named in the First Amended Complaint in Intervention have been served and can participate.

**CERTIFICATE OF SERVICE**

I, Brian V. Frankel, hereby certify that on October 3, 2005, I caused a true and correct copy of the foregoing, **STATE OF CALIFORNIA'S AND *QUI TAM* PLAINTIFF'S STATUS REPORT-OCTOBER 3, 2005**, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: October 3, 2005

/s/ Brian V. Frankel

BRIAN V. FRANKEL  
Supervising Deputy Attorney General  
Bureau of Medi-Cal Fraud & Elder Abuse  
OFFICE OF THE ATTORNEY GENERAL  
California Department of Justice  
1455 Frazee Road, Suite 315  
San Diego, CA 92108  
Tel: (619) 688-6065  
Fax: (619) 688-4200